

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

Clarence Kenneth Voigt,	)	
	)	
Plaintiff,	)	<b>ORDER ADOPTING</b>
	)	<b>REPORT AND RECOMMENDATION</b>
vs.	)	
	)	
State of North Dakota,	)	Case No. 1:07-cv-010
	)	
Defendant.	)	

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The plaintiff, Clarence Kenneth Voigt, filed a pro se complaint and application to proceed in forma pauperis on February 9, 2007. Magistrate Judge Charles S. Miller, Jr. conducted a review pursuant to 28 U.S.C. § 1915(e)(2), and submitted a Report and Recommendation on March 14, 2007. Judge Miller recommended that Voigt's application to proceed in forma pauperis be denied.

On March 20, 2007, Voigt filed an objection to the Report and Recommendation.<sup>1</sup> The Court has carefully reviewed the Report and Recommendation, relevant case law, and the record as a whole and finds the Report and Recommendation to be persuasive. The Court agrees with Judge Miller's conclusion that the State of North Dakota, as a defendant in a lawsuit brought by Voigt, was under no obligation to provide Voigt with auxiliary hearing aids while taking his deposition. The objection Voigt filed does not address the conclusion of Judge Miller that the State was not providing a service, program or activity covered by the ADA when it deposed Voigt but rather argues that he is under no obligation to make a request for accommodation.

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<sup>1</sup>On March 9, 2007, Voigt filed a "motion to change Magistrate judge" in which he makes the absurd accusation that Magistrate Judge Miller is suffering from an unspecified mental or physical disability. Voigt filed the identical motion in all five cases he has pending against the State of North Dakota in this Court.

Voigt's argument is meritless as the ADA does not require public entities to guess at what accommodation, if any, is necessary. Randolph v. Rodgers, 170 F.3d 850, 858 (8<sup>th</sup> Cir. 1999).

The Court **ADOPTS** the Report and Recommendation in its entirety. The application to proceed in forma pauperis is **DENIED**.

**IT IS SO ORDERED.**

Dated this 27th day of March, 2007.

*/s/ Patrick A. Conmy*

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Patrick A. Conmy, Senior District Judge  
United States District Court